

June 18, 1965

Governor Connally today vetoed Senate Bill No. 233, by Hardeman. The text of the veto message is as follows:

Section 1 of Article II, Constitution of the State of Texas provides for three separate departments as follows:

"Section 1. The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted. "

This bill authorizes the State Comptroller, in his examination of claims against the State, to "audit" warrant requests for "...legality, availability of appropriation; to adjust, pass upon, and settle." The Act later stipulates that the Comptroller shall not refuse to pay a "...legal claim for which a valid appropriation has been made." Notwithstanding this statement, I feel that S. B. 233 empowers the State Comptroller to determine the legality of claims against the State. This is tantamount to vesting the State Comptroller with the authority to interpret a law or laws which is rightfully a judicial function, and as such is repugnant to the Constitutional provision of a system of checks and balances within our State Government.

The State Comptroller, at his discretion, may require that all State agencies covered by this Act furnish him with all records, information or other data necessary for a proper "audit" of claims against the State. In other words, for the Comptroller to "audit" for "legality," it becomes mandatory that State agencies furnish records, information and data. This allows the State Comptroller to intrude into the time honored ministerial procedure of issuing warrants. This procedure could exert an appalling administrative burden upon our State departments and agencies. Furthermore, S. B. 233 states;

"No warrant or draft shall be drawn on the Treasury or Treasurer of this State by the Comptroller based only upon approval by a single individual, board, commission or agency. "

This provision makes it extremely difficult to give any reasonable construction to its meaning since the present warrant issuing procedure now requires counter-signatures on all warrants and drafts by the Comptroller and the Treasurer after due examination of a voucher submitted by a department head or an employee authorized to sign such voucher.

Thus, it is my opinion that S. B. 233 does not preserve a system of checks and balances as announced in its emergency clause. To the contrary, it impairs that very principle.

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